

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB FINLEY,

Defendant.

CR-15-65-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on October 13, 2017. (Doc. 68.) Finley timely filed an objection on October 27, 2017. (Doc. 69.) The Court reviews *de novo* Findings and Recommendations to which a party objects. 28 U.S.C. § 636(b)(1).

Judge Johnston conducted a revocation hearing on October 11, 2017. (Doc. 63.) Finley admitted that he violated the conditions of his supervised release. (Doc. 68 at 1.) Finley violated the conditions of his supervised release by 1) admitting on September 5, 2017, to consuming marijuana three separate times over the previous week; 2) consuming methamphetamine on September 4, 2017; 3) failing to appear for substance abuse treatment on August 30, 2017; and 4) failing to appear for substance abuse testing on August 28, 2017. *Id.* Finley denied that he committed

Domestic Abuse by punching his girlfriend in the mouth as charged by the Blackfeet Police Department. *Id.* The United States did not put on evidence regarding this allegation. *Id.*

Judge Johnston has recommended that the Court revoke Finley's supervised release. *Id.* at 6. Further, Judge Johnston has recommended Finley should be sentenced to four months of incarceration, followed by seventeen months of supervised release, with the first two months to be spent in an inpatient treatment center as set forth by the Probation Office. *Id.* The Findings and Recommendations are internally inconsistent in that they recommend three months of incarceration on page six and four months of incarceration on page five. *Id.* The docket and Finley's objection state four months of incarceration. (Doc. 63, 69.) The Court will treat the recommendation of three months of incarceration on page six of the Findings and Recommendations as a clerical error.

Finley objects to Judge Johnston's Findings and Recommendations. (Doc. 69.) He requests twelve months of supervised release following his custodial sentence. *Id.*

The Court has considered the 18 U.S.C. § 3553(a) factors and agrees with Judge Johnston's Findings and Recommendations. Finley's violations of his conditions represent a serious breach of the Court's trust. A sentence of four

months incarceration, followed by seventeen months of supervised release, represents a sufficient, but not greater than necessary sentence.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 68) are **ADOPTED IN PART AND REJECTED IN PART**. The Court rejects the Findings and Recommendations to the extent that they recommend a three month sentence of incarceration. The Court otherwise adopts the Findings and Recommendations.

IT IS FURTHER ORDERED that Defendant JACOB FINLEY be sentenced to four months incarceration, followed by seventeen months of supervised release, with the first two months to be spent in an inpatient treatment center as set forth by the Probation Office

DATED this 30th day of October, 2017.



Brian Morris
United States District Court Judge